IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

IN RE: L.S.	:	APPEAL NOS. C-140318 C-140319
	:	C-140320 C-140321
	:	TRIAL NOS. 05-346Z 05-347Z
	:	05-349Z 05-351Z
	:	
	:	*O P I N I O N.*

Appeals From: Hamilton County Juvenile Court

Judgments Appealed From Are: Appeals Dismissed

Date of Judgment Entry on Appeal: April 3, 2015

Joseph T. Deters, Hamilton County Prosecuting Attorney, and *Paula E. Adams*, Assistant Prosecuting Attorney, for Plaintiff-Appellee State of Ohio,

Office of the Hamilton County Public Defender and *Gordon C. Magella*, Assistant Public Defender, for Defendant-Appellant L.S.

Please note: this case has been removed from the accelerated calendar.

CUNNINGHAM, Presiding Judge.

{¶1} In 2005, L.S. was adjudicated delinquent for committing acts which, if committed by an adult, would have constituted attempted gross sexual imposition, gross sexual imposition and attempted rape. Following a hearing under Megan's Law, the magistrate determined that L.S. should not be classified as a sexual predator or a habitual sexual offender. L.S. was classified as a juvenile offender registrant, with a duty to register pursuant to former R.C. 2950.04. L.S.'s commitment to the Ohio Department of Youth Services until age 21 was suspended. The magistrate's decision stated, "Upon completion of the dispositions that were made for the sexually oriented offense upon which the order is based, a hearing will be conducted, and the order and any determination included in the order are subject to modification or termination pursuant to" former R.C. 2152.84 and 2152.85.

{¶2} The Adam Walsh Act ("AWA") became effective on January 1, 2008. Although it is not clear from the record, apparently L.S. received notice that he had been administratively reclassified under the AWA. He filed a pro se "motion for reclassification of community notification and sex offender registration" in the case numbered 05-351Z. The magistrate overruled the motion on January 22, 2008, stating, "[P]ursuant to 2950.031, a petition has been filed which contests the manner in which the [AWA] requirements are applicable to the petitioner or applicable at all. After hearing, it is determined that the [AWA] registration requirements apply * * * to the petitioner."

{¶3} On February 26, 2009, the magistrate held an end-of-disposition classification hearing under the AWA. The magistrate classified L.S. as a Tier I juvenile offender registrant under the AWA, stating, "[t]he classification as a juvenile

offender registrant continues with the prior sex offender determination modified to a Tier I." L.S. turned 21 on October 20, 2009.

{¶4} In *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108, the Supreme Court held that applying the AWA to sex offenders who had committed their sex offenses prior to its enactment violated the Ohio Constitution, Article IV, Section 28, which prohibits the General Assembly from enacting retroactive laws. On November 27, 2012, L.S. filed an application for expungement, which was denied. L.S. filed a motion for reclassification on February 19, 2013, and a motion to vacate the juvenile-offender-registrant classification on April 22, 2013. The magistrate overruled his motions, but appeared to recognize that L.S.'s Tier I classification under the AWA was void. The magistrate continued the matter for a completion-of-disposition hearing "to be determined under Megan's Law and [R.C.] 2152.83."

{¶5} L.S. filed objections to the magistrate's decision, arguing, among other things, that the juvenile court had no jurisdiction to hold a completion-of-disposition hearing because L.S. was over the age of 21. The trial court overruled L.S.'s objections, determining that L.S. was subject to his original classification under Megan's Law, and remanded the matter "for a hearing pursuant to [R.C.] 2152.83." L.S. appealed.

{¶6} Our jurisdiction is limited to the review of final orders. *See* Ohio Constitution, Article IV, Section 3(B)(2). We have no jurisdiction over nonfinal orders. *See Gen. Acc. Ins. Co. v. Ins. Co. of N. Am.*, 44 Ohio St.3d 17, 20, 540 N.E.2d 266 (1989). If the order being appealed is not final, we must dismiss the appeal. *Id.* A final order disposes "of the whole case or some separate and distinct branch thereof." *Noble v. Colwell*, 44 Ohio St.3d 92, 94, 540 N.E.2d 1381 (1989). "A judgment that leaves issues unresolved and contemplates that further action must be

taken is not a final appealable order." *State ex rel. Keith v. McMonagle*, 103 Ohio St.3d 430, 2004-Ohio-5580, 816 N.E.2d 597, ¶ 4, quoting *Bell v. Horton*, 142 Ohio App.3d 694, 696, 756 N.E.2d 1241 (4th Dist.2001); *see Napier v. Sparks*, 1st Dist. Hamilton No. C-130084, 2013-Ohio-4500 (juvenile court's order not final and appealable, where it did not adopt or modify the magistrate's decision, but instead remanded the cause for findings of fact and conclusions of law); *In re Guardianship of Lewis*, 1st Dist. Hamilton No. C-120837, 2013-Ohio-3502 (appeal not taken from a final order, where the trial court ordered the ward's daughter to return certain assets and noted that a further hearing would be held to determine whether the daughter owed additional money and assets to the guardianship); *Goering v. Schille*, 1st Dist. Hamilton Nos. C-110525 and C-110604, 2012-Ohio-3330 (trial court's entry purporting to vacate a decree of confirmation of a sheriff's sale of real estate was not final and appealable, where the order also set the matter for a hearing to consider objections to the magistrate's denial of the motion to vacate the decree of confirmation).

{¶7} In this case, the juvenile court determined that it had jurisdiction to act, and it remanded the cause to the magistrate for a completion-of-disposition hearing under Megan's Law. The judgments expressly contemplate further action to determine whether L.S. should be classified under Megan's Law. They did not determine the action and prevent a judgment. *See* R.C. 2505.02(B). Therefore, the judgments do not constitute final and appealable orders.

{¶8} Because L.S.'s appeals were not taken from final orders, they are hereby dismissed.

Appeals dismissed.

FISCHER and **DEWINE, JJ.**, concur.

Please note:

The court has recorded its own entry this date.